

EXPLANATIONS FOR LEGISLATIVE COMMITTEE COMMENTS AND QUESTIONS

QUESTIONS FOR JANUARY 29, 2013

- a. **Residential Development Goals - Revisions to language- further discussion, requested by Michelle Blaty**

Addressed by removal of reference to market demand.

- b. **Burden of Proof - Item D reworded.**

Modified to place the burden on establishing non-conformity shared between applicant and County.

- c. **Appeal process - Add that Appeals Board has all authority as Planning Board- requested by JP Jones.**

Note that this has been added to Chapter 2 in Section 2.8

- d. **Set up separate Ordinance to list Fee Schedules.**

This has been completed as previously provided to Committee.

- e. **Revisit inspections fees - requested by JP Allen.**

No agency contacted charges fees for follow up inspections for planning applications. However, the Benton County building officials do charge re-inspection fees. We will conduct further research on how we may best ensure that applicants follow through and meet conditions but at this time are ready to drop the re-inspection fee.

- f. **Easement for splits 1-8 Item C- Areas of Jurisdiction - requested by JP Jones.**

Staff is still researching this question to provide options to limiting access to County ROW. Staff has received research from GIS Department and is developing alternative text.

- g. **Enforcement- Section 2- Authority to access a property.**

Provided an extended Section 2.4(C) to clarify right-of-entry.

OTHER ITEMS DISCUSSED BY COMMITTEE

- a. **Tie a certificate of occupancy to meeting conditions of approval.**

A new subsection A has been added to Section 2.4 on p. 2-6.

- b. Add grandfathering term to Section 1.4(D)

c. **Modify language of Section 1.4(E).**

Modified by changing nonconformities to nonconforming.

d. **Review Section 1.6(E)(2) for better language.**

Still researching how other communities address this type of provision.

e. **Review specific threshold requirements for site plans for minor site plans.**

This issue is still being researched by staff and shall be ready when the Committee discusses Chapter 6.

f. **Mutually agreed upon price for outside technical consultants.**

Added language to Section 2.2(B) to provide for an option as to how it can be better for the applicant.

g. **Clarify how Notice of Violation would be done...**

Section 2.4 (D) includes new language clarifying detailed procedures

QUESTIONS FOR FEBRUARY 11, 2013

Clarify the applicability of the definitions with symbols attached to them:

Note that the following provision has been added to the footer where the symbols are provided on each page:

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ☒ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

Properties Must Perc for Septic

Please see provision added to Performance Standards in Chapter 4:

Wastewater: Any parcel or tract of land subject to the uses of land listed in §4.3 (C, and D) shall have suitable provisions for adequate wastewater removal. This shall include either a connection to a sewer system with adequate capacity to add the new land use or a septic system adequate to service the planned needs of the use. For any septic system, the parcel or tract must be able to perc and provide a primary and secondary septic field as per the requirements of the County Health Department.

In-Home Occupation (IHO) Research:

Current Benton County Draft Definition:

IN-HOME OCCUPATION – An in-home occupation is defined as any activity carried out for gain by a resident and conducted in the resident’s rural dwelling unit or other residential structure. Specific limitations of an in-home occupation (as opposed to other commercial activity) include the following:

1. The in-home occupation must be carried out indoors without any outdoor storage or equipment except that outdoor storage unless said storage or equipment is outside of a 300 foot setback of any property line buffered in a manner approved by the Planning Department.
2. The appearance of the residential primary or secondary structure shall not be altered for the purpose of the in-home occupation.
3. Any commercial vehicles must be garaged or not situated within 100’ of a property line.
4. Not more than one client, customer, or patron may be permitted on premises at any one time
5. Deliveries and pickups by tractor-trailers are prohibited.
6. Signage limited to one (1) sign of two (2) sq. ft. in size

Comment [CR1]: Revised 020613

Comment: The problem with this definition other than some lack of consensus on the specific criteria is that including criteria in a definition is cumbersome and unwieldy. Criteria should be provided in a standalone section if possible.

Other Definitions:

Home Occupation: Any use conducted entirely within a dwelling or an accessory building that is clearly incidental and secondary to the use of the dwelling purposes and which does not change the character thereof, and in connection with which there is no outside display or storage, nor emission of dust, noise, fumes, vibration, or smoke beyond the lot line. Such home occupation shall not employ more than two (2) persons who are not members of the family nor occupy a floor area greater than twenty-five percent (25%) of the floor area of the dwelling unit. Goods sold at retail shall be those manufactured or assembled on the premises. Care of children in the home, provided that no more than three (3) children are cared for, shall be considered a home occupation and shall be considered exempt from parking restrictions and site review. Signs for a home occupation shall be in accordance with the provisions of Section 42.8 of this ordinance.

Comment: This definition is primarily urban in focus and one that only notes the dwelling unit and does not allow outside storage or display.

Home based business/Occupation - An occupation which provides a service as an accessory use within a single family dwelling performed by one or more of its residents. Such occupations may include services performed by an accountant, architect, appraiser, dentist, medical practitioner, engineer, insurance agent, land surveyor, lawyer, planner, realtor or hairdresser.

Comment: This definition is excessively specific and lists examples of businesses, most of which are not of a rural focus but can be anywhere. It also is limited to the home.

Preferred Definition:

Residentially-Based Business: The utilization of a residential dwelling and/or accessory buildings or property to provide a service, produce a product, sell merchandise, or otherwise engage in an activity for the pursuit of remuneration; excluding the sale of the property and its improvements, garage sales, and infrequent sale of personal merchandise consistent with the use of the property solely as a residence. There are two scales of residentially-based businesses including minor and major as follows:

1. Minor Residentially-Based Business
2. Major Residentially-Based Business

Related to this definition, the preference would be to add some text in Chapter 7 to lay out what constituted thresholds between minor and major RBB's. I like generally what Coweta County, Georgia has (see below) which distinguishes between urban versus rural IHO's. I do believe based on the extensive text involved that a provision for these uses should therefore be placed in Chapter 6.

Loudoun County, VA

1. Applicant's signature and property owner's signature are required if applicant and property owner are not one and the same.
2. Members of the family residing on the premises are permitted to be engaged in such occupation.
3. No equipment or process used in such home occupation shall create noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
4. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupation shall be met by off-street parking and other than in a required front yard.
5. One employee (one full-time equivalent), other than members of the family residing on premises, shall be permitted given one additional off-street parking space is provided. Such parking space shall not be located in the required front yard, unless located on an existing driveway.
6. The use of the dwelling for the home occupation shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. Not more than 25 percent of the gross floor area of the dwelling unit nor 25 percent of said gross floor area if conducted in an accessory structure, shall be used in the conduct of the home occupation.
7. There shall be no change in the outside appearance of the building or lot, nor other visible evidence of the conduct of such home occupation other than one sign, not exceeding two square feet in area, non-illuminated.
8. There shall be no retail sales, other than items handcrafted on the premises, in connection with such home occupation.

Coweta County, GA

Residential Home Occupations. The conduct of business in the residential districts may be permitted under the provisions of this section. It is the intent of this section to ensure the following:

- a. Compatibility of home occupations with other uses permitted in residential zoning districts;
 - b. Maintain and preserve the character of residential neighborhoods and provide peace, quiet and domestic tranquility within all residential neighborhoods; and
 - c. Within the district, in order to guarantee all residents freedom from excessive noise, traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in this district.
- A. Residential Home Occupations, where permitted, must meet the following special requirements:
1. A home occupation is subordinate to the use of a dwelling unit for residential purposes. No more than twenty-five (25%) percent of the floor area of the dwelling unit may be used in connection with a home occupation or for storage purposes in connection with a home occupation.
 2. No more than two (2) home occupations shall be permitted within a single dwelling unit.
 3. A home occupation shall be carried on wholly within the principal use building. No home occupation or any storage of goods, materials, or products connected with a home occupation shall be allowed in accessory buildings or garages which are detached.
 4. The residential home occupation is limited to employment of residents of the property.
 5. A home occupation shall produce no noise or obnoxious odors, vibrations, glare, fumes, or electrical interference detectable to normal sensory perceptions outside the principal structure.
 6. No traffic shall be generated by such home occupations in greater volume than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met by providing off-street parking space and located in rear or side yard.
 7. On the premises, retail sales are prohibited except for the retail sales of products or goods produced or fabricated on the premises as a result of the home occupation.
 8. There shall be no exterior indication of the home occupation or variation from the residential character of the principal use.
 9. No on-street parking of business related vehicles (either marked or commercially equipped) shall be permitted at any home. No business related vehicles larger than a van, panel truck or pick up truck is permitted to park overnight on the premises. The number of business related vehicles are one (1). All business related vehicles shall be parked in the rear of the premises.
 10. Permitted residential home occupations:
 - a. Antique Dealer (no sales at premises)
 - b. Appliance Repair
 - c. Architectural services
 - d. Art Studio
 - e. Auto Repair (Mobile)
 - f. Barber shops/Beauty shops (limited to two stations)
 - g. Cabinet Making
 - h. Ceramics
 - i. Consulting services
 - j. Contracting, masonry, plumbing or painting, or other contracting services (no employees at the premises, no parking of equipment at the premises)*
 - k. Data Processing
 - l. Direct sale product distribution (Amway, Avon, Jaffra, Mary Kay, Tupperware, etc.) provided there is no production on premises

- m. Dog grooming
- n. Drafting and graphic services
- o. Dressmaking, sewing, tailoring, contract sewing (1 machine)
- p. Electronic Assembly
- q. Engineering service
- r. Financial planning or investment services
- s. Flower arranging
- t. Gunsmiths
- u. Hauler (one truck)
- v. Home office
- w. House Clean service
- x. In-home child care, but not more than six (6) children at a time, including the caregiver's own pre-school children
- y. Insurance sales or broker
- z. Interior design
- aa. Lawn service
- bb. Locksmith
- cc. Mobile Auto Repair
- dd. Real estate sales, broker or appraiser
- ee. Small scale garden plants for sale to retail commercial gardening and supply stores
- ff. Trucker (1 tractor, no trailer)
- gg. Telephone answering, switchboard call forwarding
- hh. Tow truck services
- ii. Tutoring, including all indoor and outdoor instructional service limited to five (5) students at a time
- jj. Upholstery
- kk. Writing, resume services, computer programming
- ll. Any similar occupation which is found to meet the intent and purpose of this article by the Planning and Zoning Department of Coweta County.

11. Prohibited residential home occupations:

- a. Ambulance service
- b. Restaurants, food preparation
- c. Automobile repair, parts sales, or detailing, washing services
- d. Veterinary services (including care and boarding)

B. Rural Home Occupations.

Rural home occupations in the RC district shall be permitted under the provisions of this section. It is the intent of this section to ensure the compatibility of rural home occupations with other uses permitted in the RC district; maintain and preserve the agricultural or rural character of the area and not create a nuisance for the residents in the area by exceeding traffic, smoke, noise or be a fire hazard.

The purpose of rural home occupations is to provide a means for residents in the larger lot rural development districts to participate in the type of businesses permitted in residential districts, be able to conduct the home occupation in an accessory building where necessary, and to park onsite, vehicles

required for home occupations. Rural home occupations, where permitted, must meet the following special requirements:

1. The minimum lot size is 10.0 acres, excluding any and all lots in a platted subdivision. For lots less than 10.0 acres, the home occupation is limited to the provisions of Section A, Residential Home Occupations.
2. The rural home occupation shall be clearly subordinate to the principle use of the parcel of land and shall not change the residential and agricultural character of the area. No more than 25 percent of the floor area of the principal dwelling shall be used in connection with the home occupation or storage purposes.
3. The rural home occupation shall be conducted within a dwelling or within an accessory building provided all structure uses are harmonious in appearance with the zoning district in which rural home occupations is located.
4. The use of one (1) accessory building is allowed as long as the area used for the home occupation does not exceed 800 square feet of floor area of said building used in connection with the home occupation.
5. The business of selling stock of merchandise, supplies or products shall not be conducted on premises except under the following circumstances:
 - a. Orders previously made by telephone or at sales parties may be filled on premises; and
 - b. Incidental retail sales may be completed which are in connection with the permitted home occupation.
6. No more than five (5) trade vehicles shall be parked on the premises. No more than three (3) employee vehicles may be parked on the premises, however, such employees shall not work at the premises location.
7. No outside storage of equipment or materials used in the conduct of the rural home occupation, including trade vehicles, is permitted unless said storage is outside of a 300 foot setback of any property line buffered in a manner approved by the Planning Department.
8. The rural home occupation is limited to residents of the property.
9. No more than two (2) home occupations shall be permitted within a single dwelling unit.
10. No additional points of access to any street shall be permitted, unless necessary to provide safe and proper access to the proposed use.
11. Permitted rural home occupations:
 - a. All occupations permitted in Section A. Residential Home Occupations.
 - b. Tow truck services. (no storage of more than two (2) vehicles)

- c. Veterinary services.
- d. Antique shop.
- e. Small engine repair.
- f. Any similar occupation, which is found to meet the intent and purpose of this article by the Planning and Zoning Department of Coweta County.

Washington County, OR

Home Occupation Home Business

To operate an office or home business Washington County requires home owners to apply for a Home Occupation instead of obtaining a business license as Washington County does not issue business licenses.

The Current Planning Division reviews requests for Home Occupations to ensure that home in which the proposed business is located does not take over the home, or change the overall character of the neighborhood.

There are four types of home occupations:

Exempt Home Occupations:

- Operate entirely within the home (cannot operate in a detached building)
- Phone order and Internet sales only
- Cannot have employees other than the family members residing in the home
- Cannot create extra parking spaces
- No customers allowed to visit the home

Type I Home Occupations:

- Operate entirely within the home (cannot operate in a detached building)
- Phone order and Internet sales only
- Cannot have employees other than the family members residing in the home
- Cannot create extra parking spaces
- Are limited to 5 or less customers visits per day

Type II Home Occupations:

- Operate within the home or a detached building within the property
- Have limited retail sales from the home
- Have one employee form outside of the family living within the home
- Extra parking spaces would be allowed to be created
- Are limited to 9 or less customers visits per day

Type III Home Occupation can:

- Operate within the home or a detached building within the property
- Have limited retail sales from the home
- Have one employee form out side of the family living within the home
- Extra parking spaces would be allowed to be created
- Are limited to 9 or less customers visits per day
- Allow for limited storage in back yard, front yard, or side yard of the home

- Allow for a vehicle without weight limits, for example; a truck that requires a commercial drivers license, to be stored on the property
- Type III Home Occupations can only be approved in the AF-5 and AF10 Zones

Approved Home Occupations must be reviewed and renewed every two years. Renewals usually require a [Type II](#) application procedure.

Key points:

- Don't try to define specific uses
- Broad verses narrow
- Include multiple family units
- Pursuit of remuneration
- Exemption for common, non-business transaction

Town of Ridgefield, CT

Home occupation, minor- A home based business involving one (1) non-resident employee or occasional visitor to the business.

Home occupation, major- A home based business involving two (1) or more non-resident employee or involving regular visitor to the business.

Type 1: (those that are benign and permit by right- no signs, no employees)

Home based business permitted by right - A home office within the same dwelling used by such person as his or her primary residence provided that:

- a. The area devoted to such accessory use shall not exceed 20% of the total square footage of the dwelling, exclusive of garage, attic, and basement area; and
- b. The accessory use shall:
 - 1) Not change the exterior residential appearance or character of the building or be noticeable from the exterior of the building; and
 - 2) Not materially change the traffic characteristics of the neighborhood; and
 - 3) Not have any outside storage; and
 - 4) Not involve the display of signs or products in, on, or about the premise, and
 - 5) Not involve retail sales at the premises.
 - 6) No commercial vehicle storage.
 - o Type 2: Minor-Administrative review- sign, 1 visitor and 1 employee
 - o Type 3: Major- Planning board review- sign, more than one visitor

Type 2: Minor home based business - One nonresident employee is permitted at this level. A minor home occupation where such business is located within the same dwelling used by such person as his or her primary residence provided that:

- a. The area devoted to such accessory use (including storage of any supplies or materials) shall not exceed 25% of the total square footage of the dwelling, exclusive of garage, attic, and basement area; and
- b. Not more than one (1) nonresidential person shall be employed on the premises; and

- c. The accessory use shall:
 - 1) Be conducted entirely within the primary dwelling by the resident occupant; and
 - 2) Clearly be incidental and secondary to the use of the dwelling for living purposes; and
 - 3) Not change the exterior residential appearance or character of the building or be noticeable from the exterior of the building; and
 - 4) Not materially change the traffic characteristics of the neighborhood; and
 - 5) Not have any outside storage; and
 - 6) Not involve the display of signs or products in, on, or about the premise, and
 - 7) Not have any outside storage or parking of commercial vehicles; and
 - 8) Not include the keeping of stock in trade nor the sale or entail of any goods not produced within the premises; and
 - 9) Not involve the display of signs or products in, on, or about the premise, and

- d. Parking areas for residents, employees or the general public shall not be located in an inappropriate location and any parking areas shall be screened, if necessary.

Type 3: Major home based business-there may be two or more employees, the space may exceed 25% of the home, stock in trade may be kept at home. A home based business where such business use does not comply with the requirements of minor home occupation is deemed as major [and shall require an application for site plan review].

Definitions for Driveway and Private Road

DRIVEWAY - is a type of private way for local access to one or two properties and is owned and maintained by one or two property owners. Driveways are not resurfaced, cleared, or otherwise maintained by the County. They are generally designed to conform to the architecture of connected houses or other buildings. Driveways are commonly used as paths to private garages, carports, or houses. On large estates, a driveway may be the road that leads to the house from the public road, possibly with a gate in between. Some driveways divide to serve different homeowners. A driveway may also refer to a small apron of pavement in front of a garage with a curb cut in the sidewalk, sometimes too short to accommodate a car.

PRIVATE ROAD - is a road that provides local access to three or more of residential or commercial structures, and is designed to County standards for private roads. Private roads are maintained by the group of users that the private road serves. Private roads are commonly used to provide access within informal plats and may also provide emergency access to a grouping of plat or a rural subdivision.